THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 4640 of 2007

Dated: 08.03.2007

Between:

A. V. Maddaiah, E. 400530, Conductor

.... PETITIONER

AND

The Depot Manager, APSRTC, Dhone, Kurnool District and one another

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No.4640 of 2007

Order:

The Writ Petition is filed seeking a Mandamus declaring the action of the respondents in issuing the proceedings dated 22.6.1994, imposing major punishment of deferment of one year annual increment of the petitioner for a period of one year with cumulative effect as illegal and arbitrary.

The petitioner is working as a Conductor in the 2nd respondent-APSRTC. A show cause notice cum impugned proceedings dated 22.6.1994 were issued against the petitioner on the allegation of Cash and Ticket irregularities, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him, for which he submitted an explanation denying the charge framed against him. The respondent, without conducting any regular departmental enquiry and without affording any opportunity, passed the impugned order imposing punishment of deferment of the annual increment for a period of one year with cumulative effect. Aggrieved by the same, the petitioner filed the present Writ Petition.

Learned counsel for the petitioner submits that the respondent, without furnishing a copy of enquiry report and without affording any opportunity of hearing to the petitioner, straight away issued the impugned proceedings imposing punishment of deferment of annual increment for a period of one year with cumulative effect and calling upon the petitioner to

show cause as to why the suspension period should not be treated as not on duty. He further submitted that the issue raised in this writ petition is squarely covered by the orders of this Court in W.P. No. 18299 of 2005, dated 05.09.2005. Learned Standing Counsel for the respondents-Corporation admitted the same. He, however, opposed the relief contending that after considering the entire material on record, the impugned order was passed, and no interference is called for therewith.

Heard the learned counsel for the petitioner and the learned Standing Counsel for the respondent-Corporation.

The issue raised in the present writ petition is squarely covered by the orders of this Court in W.P. 18299 of 2005, dated 05.09.2005. The operative portion of the said order, reads as under:

> *"Strictly speaking, the impugned order deserves to be set aside, and the matter needs to be remanded. However, having regard to the fact that nearly six years have elapsed, this Court does not find it proper, to subject the petitioner to another set of proceedings. Taking the totality of the circumstances, into account, the punishment of stoppage of increment shall be treated, as the one without cumulative effect. However, the petitioner shall not be entitled for any monetary benefit, upto the date of this order, on account of the modification of the punishment.*
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> *The writ petition is accordingly disposed of. There shall be no order as to costs."*

Hence, following the orders of this Court in W.P. No. 18299 of 2005, dated 05.09.2005, the present writ petition is also disposed of with the following direction.

The impugned order dated 22.6.1994, passed by the respondent, imposing punishment of stoppage of annual increment for a period of one year with cumulative effect, is modified to that of stoppage of annual increment without cumulative effect. However, the petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be

entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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N.V. RAMANA, J.

Date: 08.03.2007
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